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SUBJECT: DEMARCHE: PROSECUTING PIRATES OF EGYPTIAN
FISHING VESSELS SAMARAH AHMED AND MOMTAZ 1

REF: (A) STATE 59021 (B) CAIRO 1571

¶1. This is an action request. See paragraph 2.

Objectives

¶2. Department requests that the Embassy approach the GOE at the appropriate level with the following objectives:

-- Express U.S. admiration for the courageous self-rescue of the Egyptian crews of two pirated fishing vessels;

-- Determine GOE intent with regard to prosecuting the suspected pirates. The pirates are reportedly in the custody of the crew members, who are currently sailing the two fishing vessels back to Egypt.

-- Explain USG's position that affected states should prosecute piracy in their national courts; and

-- Encourage GOE to prosecute these pirates in Egyptian court.

Reporting

¶3. Post is requested to report by either email or cable by September 7 to PM/PPA Donna Hopkins, Hopkinsdl@state.gov or hopkinsdl@state.sgov.gov.

Background

¶4. The SAMARAH AHMED and MOMTAZ 1 are Egyptian fishing boats held since April 10 by pirates near the Somali port of Bossaso. According to press reports, the crews of the two boats overpowered their captors on or about August 14 and are now sailing back to Egypt with eight captive pirates. One press report stated that two pirates were killed; another reported that "seven dead pirates" washed up on Somali shores right after the self-rescue. The crews reportedly declined an offer by the GOE to be flown back to Egypt, choosing instead to sail their ships home to demonstrate their "pride and courage."

¶5. Department had previously urged GOE to prosecute pirates captured on May 13 by U.S. forces while attacking the Egyptian-flagged, Egyptian-owned, and Egyptian crewed M/V AMIRA in April 2009 (State 59021). GOE took no action and the U.S. Navy eventually transferred the suspects to Kenya for prosecution. Subsequent conversations with Egyptian officials indicated that GOE is reluctant to prosecute Somali pirates in Egyptian courts (Cairo 1571).

¶6. The United States believes that the state(s) affected in a pirate attack should accept responsibility for prosecuting

the suspects. Kenya has accepted over 100 suspects for prosecution in cases where affected states have not been willing or able to prosecute the offenders, but the burden needs to be shared more broadly. The Kenyan judicial system is being strained and some Kenyans are increasingly questioning their role. In order to avoid impunity for acts of piracy, it is becoming increasingly important that affected states prosecute pirates in their national courts. GOE prosecution of the SAMARAH AHMED and MOMTAZ 1 pirates would set an important precedent in the region and demonstrate that suspected pirates will be brought to justice.

¶ 7. PM PDAS Tom Countryman will lead the U.S. delegation to the September 10 plenary meeting of the Contact Group for Piracy off the Coast of Somalia. Post's findings will inform his discussion with his Egyptian counterpart.

CLINTON